

Message Text

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PAGE 01 MEXICO 09867 162303Z
ACTION L-03

INFO OCT-01 ARA-14 ISO-00 JUSE-00 SCA-01 SCS-05 DHA-02
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FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 2890
INFO ALL USCONS MEXICO

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E.O. 11652: NA

TAGS: CASC, MX

SUBJECT: VISIT OF JUSTICE REPRESENTATIVE REGARDING
IMPLEMENTATION LEGISLATION TASK FORCE US-MEXICO PRISONER
TRANSFER TREATY

REF: STATE 133127

1. EMBASSY PLEASED TO LEARN OF MR. ABBELL'S ASSIGNMENT
AND LOOKS FORWARD TO HIS VISIT.

2. RE ISSUES POSED IN PARAGRAPH 2, THE FOLLOWING WOULD
BE EMBASSY'S COMMENTS:

(A) DISADVANTAGE BY DROPPING APPEAL -- THERE WOULD BE SOME
DISADVANTAGE IF CASE IS BEING HANDLED BY A PRIVATE ATTORNEY
(AS OPPOSED PUBLIC DEFENDER). NORMALLY THE RESULT OF AN
APPEAL IS A REDUCTION IN THE SENTENCE AND/OR FINE. AMOUNT
MAY VARY. AVERAGE WOULD PROBABLY BE ABOUT 3-6 MONTHS OFF
SENTENCE BUT THERE HAVE BEEN SEVERAL CASES WHERE REDUCTION
HAS BEEN SUBSTANTIAL, I.E., SEVERAL YEARS.

(B) EMBASSY PRESUMES ABOVE QUESTION RELATED TO APPEALS
AND NOT AMPAROS. EXPERIENCE WITH THE AMPARO PROCESS IN
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PAGE 02 MEXICO 09867 162303Z

THE FEDERAL DISTRICT IS THAT THE PROCESS RARELY HAS ANY
EFFECT OTHER THAN TO CONFIRM THE SENTENCE. THIS IS NOT
ALWAYS THE CASE OUTSIDE OF THE FEDERAL DISTRICT WHERE MUCH
MORE SUCCESS HAS BEEN ENCOUNTERED -- FOR A FEE. (THE
AMPARO PROCESS WOULD NOT RESULT IN A LOWERING OF A SENTENCE
SINCE, BY DEFINITION, IT IS AN ALL OR NOTHING PROCEDURE.)

(C) REMEDY OF COLLATERAL ATTACK -- THIS INVOLVES THE USE OF AN AMPARO AND THE EMBASSY HAS HAD LITTLE OPPORTUNITY TO OBSERVE CASES IN THIS AREA. IT IS BELIEVED TO BE USED OUTSIDE THE FEDERAL DISTRICT BUT FOR MORE ACCURATE INFORMATION ON THIS, AS WELL AS VARIATIONS ON THE OTHER

POINTS, THE EMBASSY WILL SEEK THE ADVICE OF THE OUTLYING POSTS. SUBJECT TO VIEWS FROM THE POSTS, THE EMBASSY WOULD SPECULATE THAT THE LACK OF THE PRESENCE OF THE INDIVIDUAL IN MEXICO -- AND OF PRESSURE AND MONEY FROM HIS FAMILY-- WOULD RENDER THE COLLATERAL ATTACK OF LITTLE PRACTICAL UTILITY, IF ANY. THE ONLY EXCEPTION MIGHT BE THE REPRESENTATION OF THE PRISONER BY A HIGHLY COMPETENT AND EXPENSIVE ATTORNEY -- A REMOTE POSSIBILITY FOR A NARCOTICS CASE, BUT POSSIBLE FOR A COMMON OFFENSE.

(D) THE ORDER TO PAY REPARATIONS IS INCLUDED IN THE "SENTENCE" WHICH WOULD BE TAKEN TO INCLUDE THE ORDER OF CONFINEMENT. REPARATIONS MUST BE PAID OR UNDERTAKEN TO BE PAID BEFORE THE INDIVIDUAL CAN BE RELEASED. IN THEORY, REPARATION IS REGARDED AS CIVIL IN NATURE. THE EMBASSY HAS LITTLE EXPERIENCE IN THE UNDERTAKINGS TO PAY REPARATION.

(E) THE EMBASSY WILL POUCH A SAMPLE OF A MEXICAN "SENTENCE". IT IS ALSO POUCHING A COPY OF A MEMORANDUM ON THE MEXICAN LEGAL SYSTEM IN THE FEDERAL DISTRICT PREPARED BY THE EMBASSY'S LEGAL ADVISER. THIS DOCUMENT HAS NOT BEEN UNCLASSIFIED

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PAGE 03 MEXICO 09867 162303Z

EXPANDED TO COVER THE EXPERIENCE OF THE POSTS OR OF THE AREAS IN THE MEXICO CITY CONSULAR DISTRICT OUTSIDE THE FEDERAL DISTRICT.

3. RE PARA 5, EMBASSY HAS HAD NO INDICATIONS OF DIFFICULTIES IN OBTAINING COLLABORATION OF MEXICAN STATES IN TRANSFERRING US OFFENDERS CONVICTED OF STATE OFFENSES AND DOES NOT FORESEE ANY PROBLEMS IN THIS AREA. THOMPSON

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